

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

GENE COGGINS,)	
)	
PLAINTIFF,)	
)	
v.)	CASE NO.: 3:08-cv-257-TMH
)	
JOHN SCROGGINS,)	(WO - Do Not Publish)
)	
DEFENDANT.)	

ORDER

By an Order (Doc. # 17) dated May 16, 2008, this Court directed Plaintiff to file an amended complaint because the allegations of the complaint are so general and vague that they do not adequately provide notice of what the defendant is alleged to have done that would make him liable to Plaintiff. Additionally, Plaintiff makes no allegation whatsoever about who John Scroggins is and what role he played, if any, in the alleged violations of Plaintiff's rights under the United States Constitution. The Court cannot ascertain whether John Scroggins is a "state actor" within the meaning of 42 U.S.C. § 1983; moreover, Plaintiff does not allege whether he brings suit against the defendant in his official capacity, if any, in his individual capacity, or both. The Court required Plaintiff to file an amended complaint which specifies each wrongful act committed by Scroggins, including the date and the place of the wrongdoing, the federal statute or constitutional provision that was violated by each act of wrongdoing, and the specific injury or damage to Plaintiff as a result of each act of wrongdoing. The Court advised Plaintiff that "injury" or "damage" should be stated in terms

of the consequences to Coggins and the cost or value of the damage. The Court required Plaintiff to clarify with documentation (including case number, indictment or information, etc.) if he faces any pending criminal charges arising out of the arrest discussed in his Complaint or if any outstanding warrants remain against him. Plaintiff was also required to explain to the Court the following sentence: “Scroggins...refused to accept the continuance that was filed for medical emergency, dismissed my appeal when you (sic) entered an oral motion for dismissal, creating a direct and through (sic) association of this illegal due process of law.” Compl. at 2. Plaintiff was required to specifically explain what role Scroggins played in refusing to accept the continuance and dismissing the appeal. The Court specifically cautioned Plaintiff that failure to comply with its Order could lead to the dismissal of his Complaint.

Despite the unambiguous command of the Court’s May 16, 2008 Order, Plaintiff has refused to file an amended complaint. Instead, he filed a meritless motion challenging the ability of the Court to enter the Order directing the amendment and another court Order. *See* Doc. # 18. Moreover, Plaintiff argued that his complaint was sufficiently clear. *Id.* The Court disagrees.

Plaintiff is called on to state facts which show who defendant Scroggins is and exactly how defendant Scroggins, caused a violation of Plaintiff’s rights. Specifically, Plaintiff is called upon to state how defendant Scroggins was responsible for failing to protect Plaintiff from another private citizen stealing or damaging his property. Additionally, Plaintiff is called on to specifically allege how defendant Scroggins refused to accept the continuance

and dismissed his appeal allegedly violating Coggins' rights to due process and his rights under the Sixth Amendment. Furthermore, Plaintiff is required to allege how Scroggins had anything to do with Plaintiff's placement in jail, with Plaintiff being charged with domestic violence or menacing. Finally, Plaintiff is called on to state whether the alleged wrongs of defendant Scroggins were committed in his personal or official capacity.

It is hereby ORDERED as follows:

1. On or before **June 23, 2008**, Plaintiff shall file an amended complaint setting forth the specific *factual* basis for his claims against the defendant in this action. Plaintiff's amended complaint must also specifically state whether he intends to bring claims against the defendant in his individual capacity, in his official capacity, or in both capacities. Plaintiff's amended complaint shall remedy the deficiencies identified in this Order and in the Court's May 16, 2008 Order.

2. The Court has reviewed some of Plaintiff's other cases in this Court and discerned that Plaintiff has a pattern of refusing to amend his complaints when directed to do so. **Plaintiff is hereby warned that failure to comply with Orders of this Court, including this Order directing him to file an amended complaint may result in the dismissal of his action.**

3. For the reasons previously explained in a Memorandum Opinion and Order entered on May 14, 2008 (Doc. # 16), the plaintiff is not entitled to the relief he seeks by his motion. Accordingly, Coggins' motion to dismiss (Doc. # 18) is DENIED.

DONE this the 16th day of June, 2008.

/s/ Truman M. Hobbs
SENIOR UNITED STATES DISTRICT JUDGE